

STATE OF INDIANA)
) SS:
COUNTY OF MARION) COMMISSIONER OF INSURANCE

CAUSE NO.: 10253-AG11-0412-069

IN THE MATTER OF:

Justin Boruff
Respondent

641 Robin Dr.
Ellettsville, IN 47429

Type of Agency Action: Enforcement
Indiana License No. 678817

FILED

OCT 24 2011

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On August 23, 2011, the Administrative Law Judge, Debra M. Webb, filed her Findings of Fact, Conclusions of Law, and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of Law, and Recommended Order and Notice of Filing of Recommended Order on Respondent by mailing the same to his home address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

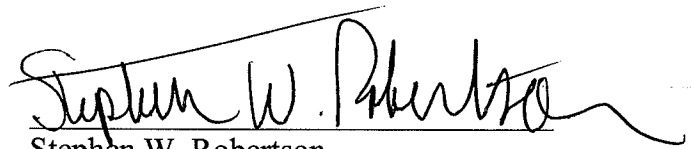
3. Respondent has not filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

THEREFORE, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's producer license is hereby revoked for two (2) years.
2. Respondent is barred from transacting any further business in Indiana as an insurance producer. Respondent may seek re-licensure as a producer in Indiana after the two (2) year revocation period.
3. Respondent pays a fine in the amount of One Thousand Dollars (\$1,000.00) within sixty (60) days.
4. If payment is not made to the Indiana Department of Insurance in sixty (60) days, Respondent will be referred to the Office of the Indiana Attorney General.

ALL OF WHICH IS Ordered by the Commissioner this 24th day of October, 2011.


Stephen W. Robertson,
Commissioner

Distribution:

Nick Mann, Attorney
Indiana Dept. of Insurance
311 W. Washington St., Suite 100
Indianapolis, IN 46204

Justin Boruff
641 Robin Dr.
Ellettsville, IN 47429

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 10253-AG11-0412-069

IN THE MATTER OF:

Justin Boruff
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STATE OF INDIANA
DEPT. OF INSURANCE

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

Administrative Law Judge, Debra M. Webb, having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Justin Boruff ("Respondent"), which came to be heard on the 14th day of July at approximately 10:17 A.M. at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana 46204.

The Indiana Department of Insurance (the "Department") was represented by counsel, Nikolas P. Mann. Respondent did not appear personally or by counsel. The witness testified under oath, evidence was heard, and exhibits were received into evidence.

The Administrative Law Judge, having heard the testimony of the witness and having reviewed the exhibits introduced into evidence, and having considered the Indiana Department of Insurance Statement of Charges filed on June 21, 2011 against Respondent now makes the following Findings of Fact and Conclusions of Law, and issues a Recommended Order as follows:

FINDINGS OF FACT

1. Respondent holds resident producer license number 678817. Respondent was duly licensed by the State of Indiana in December 2009.
2. Respondent holds a non-resident producer license, or its equivalent, in twenty five (25) states. *Transcript, July 14, 2011 at p. 16.*
3. The Department became aware of Respondent's misconduct when a phone call was received from the New York Department of Insurance. An investigator employed by the New York Department of Insurance informed Mr. David Rose, an investigator for the Department, the State of New York was prepared to take administrative action against Respondent. *Transcript p. 10.*
4. Respondent has failed to report administrative actions taken against him in other states to the Department. *Transcript p. 11; Exhibit 5.*
5. As of March 30, 2011, Respondent's non-resident producer license had been revoked in at least two states, Louisiana and Virginia. *Exhibit 3.*
6. On September 10, 2010, the Louisiana Department of Insurance ("LDOI") issued Respondent a "Notice of Revocation of License." The purpose of this letter was to notify Respondent that his non-resident producer license was revoked. *Exhibit 4.*
7. The LDOI brought this action against Respondent for his violation of the Louisiana Insurance Code and for his failure to cooperate with LDOI proceedings. The violation cited by the LDOI relates to Respondent's failure "to provide any quarterly reports" indicating timely child support arrearage payments "for September 2009, December 2009 or March 2010." *Exhibit 4.*

8. On June 23, 2010, the LDOI mailed a "notice of allegation of misconduct" to Respondent. The notice was signed for on July 23, 2010. *Exhibit 4.*
9. Despite having received notice, Respondent did not contact the LDOI prior to the revocation of his license. *Exhibit 4.*
10. Respondent's Louisiana non-resident producer license was effectively revoked on September 10, 2010. *Exhibit 4.*
11. On March 25, 2011, the Commonwealth of Virginia, through the State Corporation Commission (the "Commission"), issued Respondent an "Order Revoking License." *Exhibit 5.*
12. The Commission brought its action against Respondent for his violation of the Code of Virginia and for his failure to cooperate with Commission proceedings. The violation cited by the Commission relates to Respondent's failure to "report to the Commission within thirty days an administrative action that was taken against him by the State of Louisiana." *Exhibit 5.*
13. On February 3, 2011, the Commission mailed certified notice to Respondent of his right to a hearing. *Exhibit 5.*
14. Respondent failed to request a hearing and did not communicate with the Commonwealth of Virginia's Bureau of Insurance prior to the revocation of his license. *Exhibit 5.*
15. Respondent failed to report either the Louisiana or Virginia license revocations to the Department.
16. Given the likelihood that Respondent would face actions by the other States in

which he held a non-resident producer license, Mr. Rose contacted Respondent via telephone to pursue an efficient resolution. Mr. Rose suggested Respondent enter into an Agreed Entry with the Department. The proposed Agreed Entry stipulated the revocation of Respondent's resident producer license which would have effectively extinguished his non-resident producer licenses in all other States. *Transcript pp 16 - 17.*

17. During the telephone conversation, Respondent verbally agreed to the terms of this Agreed Entry. Acting on this information, Mr. Rose mailed the proposed Agreed Entry to Respondent. *Transcript p 17.*
18. On May 31, 2011, approximately six (6) weeks after the above referenced telephone conversation, Mr. Rose sent a letter to the Respondent informing him that "if the Agreed Entry is not signed, notarized and returned to the Department by June 10, [2011], the Department [would] file a formal Statement of Charges." *Exhibit 6.*
19. Respondent did not respond to the May 31, 2011 letter or contact the Department in any way. *Transcript p. 18.*
20. There is no evidence to indicate the May 31, 2011 letter was not received by Respondent. *Transcript p. 16.*
21. On June 21, 2011, a formal Statement of Charges was filed and a Notice of Hearing was sent to Respondent via certified mail to his last known mailing address. *Exhibits 1 and 2.*
22. On July 8, 2011, the Notice of Hearing was returned to the Department because

Respondent failed to claim the document. *Exhibit 2 and Transcript p. 9.*

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. The Commissioner has the discretionary authority to revoke Respondent's license to sell insurance in Indiana and to impose a fine. Indiana Code §27-1-15.6-12(b).
4. The Department has met its burden in showing by a preponderance of the evidence that Respondent's conduct is contrary to the Indiana Insurance Code and that disciplinary action to include revocation of license for a period of years is in order.
5. Respondent acted in a manner contrary to Indiana Code §27-1-15.6-12(b)(9) by having a producer's license, or its equivalent, revoked in the State of Louisiana.
6. Respondent acted in a manner contrary to Indiana Code §27-1-15.6-12(b)(9) by having a producer's license, or its equivalent, revoked in the Commonwealth of Virginia.
7. Respondent acted in a manner contrary to Indiana Code §27-1-15.6-17(a) by failing to report the administrative action taken by the State of Louisiana within thirty (30) days to the Department.
8. Respondent acted in a manner contrary to Indiana Code §27-1-15.6-17(a) by failing to report the administrative action taken by the Commonwealth of Virginia within thirty (30) days to the Department.

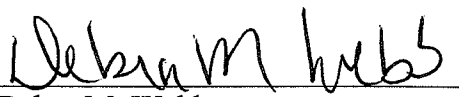
9. Respondent has established a pattern of behavior which indicates his unwillingness to comply with, or respond to, the authorities that regulate his professional license, including this Department.
10. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. Respondent's producer license to transact the business of insurance in Indiana be revoked for two (2) years.
2. Respondent be barred from transacting any further business in Indiana as an insurance producer from the date of the Final Order. Respondent may seek re-licensure as a producer in Indiana after the two (2) year revocation period.
3. Respondent be required to pay a fine in the amount of one thousand dollars (\$1,000.00) within sixty (60) days of the Final Order.
4. If payment is not made to the Indiana Department of Insurance in sixty (60) days, Respondent be referred to the Office of the Indiana Attorney General by the Enforcement Division.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 23rd day of August, 2011.


Debra M. Webb
Administrative Law Judge